

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

APPLETON PAPERS, INC., et al.,

Plaintiff(s),

v.

MOTION HEARING

**GEORGE A. WHITING PAPER
COMPANY, et al.**

Case No. 08-C-16

Defendant(s).

HONORABLE WILLIAM C. GRIESBACH, presiding
Deputy Clerk: Cheryl
Proceeding Held: September 30, 2011

Tape: 093011
Hearing Began: 10:02 a.m.
Hearing Ended: 10:25 a.m.

Appearances:

Plaintiff(s): Darin McAtee and Vanessa Lavelly for NCR Corp.,
Ronald Ragatz for Appleton Papers, Inc.

Defendant(s): Jeff Davis and Nancy Peterson for WTM I Company,
Mike Cohen for Carrier X (WTM's Carrier)
Ed Cohen for First State
Mary Rose Alexander for Georgia-Pacific
Caleb Holmes for PH Glatfelter Co.
Richard Yde for City of Appleton

Hearing on: Plaintiff NCR's 7(h) Motion to Compel Directed to WTM I Company

Attorney Nancy Peterson on behalf of WTM I requests the Court deny the motion and updates the Court on the facts of the case. One carrier has made payments, the other two carriers have conditional settlement agreements upon specific conditions occurring. WTM I argues that NCR is not entitled to the discovery of the two conditional agreements. If they disclosed the conditions at this time it would be prejudicial to them. They have already provided some redacted documents.

Attorney Mike Cohen on behalf of Carrier X states there was an understanding regarding non-disclosure of the carrier's name. It would be highly prejudicial to his client to allow NCR to have knowledge of what the insurers and WI Tissue anticipate regarding settlement.

Attorney Darin McAtee on behalf of NCR state there are two documents at issue that they believe show substantial settlement recoveries either now or in the future for WTM, they are relevant to the offset issue at trial and its important to have these agreements to evaluate settlement prospects. Attorney McAtee states these are discoverable documents and there is no prejudice to WTM.

Attorney Nancy Peterson on behalf of WTM responds.

Court **defers** ruling on motion at this time.

Attorney Darin McAtee states that the conditional number to be paid is discoverable and critical to help them negotiate.

Attorney Nancy Peterson responds stating that they would be disclosing their strategy.

Attorney Mike Cohen responds.

Attorney Ron Ragatz on behalf of Appleton Papers states that they are in support of NCR motion.

The Court **denies** the 7(h) motion for expedited relief. The parties will brief the issue.

Parties want motion resolved before depositions the end of the month.

Response due in 10 days, and reply due 7 days thereafter.